UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/NGO/23
31 January 1991

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 24

STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV)

[31 January 1991]

THE SITUATION OF CHILDREN IN GUATEMALA

1. On 2 September 1990 the Convention on the Rights of the Child came into force, after ratification by approximately 80 States Members of the United Nations. The ratification of this Convention is an important step in the development of international human rights standards and we concur with the observations made by Mr. Jan Martenson, head of the Centre for Human Rights, at the signing of the Convention in New York on 26 January 1990, when he said that "the Convention on the Rights of the Child, more than any other instrument in this field, incorporates the whole spectrum of human rights - civil, political, economic, social and cultural - and provides that respect and protection of all the children's rights are the starting point for the full development of the potential of the individual in an atmosphere of freedom, dignity and justice".

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2. The States that ratified the Convention include Guatemala, where, at the present time, 56 per cent of the 9 million inhabitants, are under 20 and where there are over 1.6 million children under five. Guatemala is known to be a country where enjoyment of the most basic of rights is prevented by discriminatory and repressive government policies, and where children, particularly indigenous children, are deprived of their rights and denied the minimum conditions for their gradual and essential physical and mental development.

3. The first part of the Convention (art. 2) stipulates that:

> "1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status"; and
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> 2. "... shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."

4. However, the poverty and marginalization of the majority of Guatemala's child population require various special forms of attention in respect of nutrition, education, health and welfare, to which we shall not refer here as they are the consequence of persistent structural problems we have already discussed in previous reports. On this occasion, we shall speak of the repression and the exploitation of Guatemalan children.

Child victims of repression

5. Thousands of children have been and continue to be direct victims of repression by the Guatemalan Government and the army, particularly in rural areas, where the majority of the indigenous population live. Many children have been murdered along with their parents or have witnessed the forcible disappearance or extrajudicial execution of their parents or other family members. The result has been psychological trauma that is hard to overcome. In a clear breach of article 38 of the Convention, which deals with the rights of the child in armed conflicts, children from the age of 15 have been forced to take part in the military activities of the civilian self-defence patrols controlled by the army.

6. It has been calculated that more than 60 per cent of the total number of refugees outside Guatemala are adolescents, who make up the same percentage of the almost 1 million displaced persons inside Guatemala. According to data from the Guatemalan Episcopal Conference, there are 150,000 orphans in the country, and the State does not look after them in any way.

7. As the Government of Guatemala was among the Governments that ratified the Convention on the Rights of the Child in September 1990, a number of international human rights organizations at the time published documents on extrajudicial executions and violations of human rights affecting street children. They are abandoned children or orphans who live in the street and are harassed, threatened, attacked, beaten, tortured, and illegally executed,

by members of the police operating either in uniform or in plain clothes. Occasionally, the attackers have been members of private security firms licensed by the Ministry of the Interior. While some of the young victims are undeniably involved in petty crime and drug-addiction because they live in complete neglect, receive no care and simply try to survive, the desire to control ordinary crime is no excuse for violating fundamental rights, including the right to life. The examples mentioned are not only breaches of article 19 of the Convention, which protects children from ill-treatment, but also of article 20, which compels the State to provide special protection and assistance for children deprived of their family environment.

8. The child victims of official repression include Nohamán Carmona López, aged 13, who was attacked on 4 March 1990 by members of Police Corps No. 7 as she was sniffing glue with a group of youngsters between 6 and 14 years of age. Nohamán was taken in a serious condition to San Juan de Dios Hospital, where she died some days later as a result of the blows by the police to her abdomen and skull.

9. A 12-year-old boy, Marvin Oswaldo de la Cruz, died when he was shot in the side of the head by a policeman as he was running away after stealing a motorcyclist's goggles. Another child shot by the police in June was Anstraun Amán Villagrán. Walter Villatoro, Salvador Sandoval and Jovito Josué Castellanos were arrested and disappeared. Their corpses were found later and showed signs of torture, such as burn marks, the eyes pulled out and other mutilations.

10. The Guatemalan Commission on Human Rights (CDHG), which is a member of our Federation, has recorded several cases in which children have been murdered by the Government forces of repression in the course of indiscriminate attacks against the whole of their family and/or community. The following are some of the victims.

11. Edwin Alfredo Hernández Cabrera, six-years-old, died on the way to hospital after receiving a bullet wound when armed men burst into his home in the La Blanca settlement, Ocós municipality, San Marcos Department, on 13 June 1990, and killed four adults.

12. A 12-year-old girl, Mary Angely Betzabell Váldez, was an eyewitness to the extrajudicial execution of a worker in Guetamala City on 8 November 1989 and was shot dead when she screamed.

13. On 3 December 1990, Jorge Simaj Saquil, his wife María Lucía Azurdia, both aged 35, and their two-year-old son, Jorge Luís Simaj Azurdia, were arrested by unidentified men in the central park in Chimaltenango. Their corpses were found two hours later in Nazareno district, zone three, of the same city. The couple's throats had been cut and their son had been hanged.

14. It is impossible to pass over the murder of several children in the most recent massacre, which occurred in Santiago Atitlán, Sololá Department, on 2 December 1990. As a result of an attempted illegal arrest of one of the inhabitants, the population decided to organize a march to the military detachment to lodge a peaceful protest with the local military authorities. There were many children among the over 2,000 demonstrators. When they reached the detachment, the army fired indiscriminately on the demonstrators,

killing 16 people. The victims included several children: Pedro Mendoza Cotu (18), Francisco Girón Chicojau (10), Juan Ajuchan Nisia (17), Pedro Cristal Mendezo (13), Gaspar Coo Sicay (18), Gerónimo Sojuel Sisay (16). Among the 17 persons seriously wounded were Francisco Mendoza y Mendoza (12) and Gaspar Tziná Tinay (16).

Child Labour (Art. 32 of the Convention)

15. On account of the extreme poverty in which the vast majority of Guatemala's population live, children are compelled to work in conditions of extreme exploitation and to do agricultural work in the agricultural export system. An extremely high, although unspecified, percentage of children also work in domestic service and as day labourers, bricklayers' mates, shoe-shine boys and street pedlers.

16. Each year approximately 350,000 people, largely indigenous persons from Guatemala's Altiplano, migrate temporarily to the Costa Sur to work on the coffee, sugar cane, cardamom and cotton plantations. Between 27 and 32 per cent of these migrants are children who share their parents' working conditions: great heat, inadequate housing and food, exposure to poisoning (on account of the pesticide fumigation operations carried out during working hours) and to illnesses such as malaria. Such conditions may be described as a modern form of slavery.

17. Agricultural export firms regularly make use of child labour, for the output is the same as in the case of an adult. The child's work is frequently included in the parents' wage. Fourteen-year-old children who do the same amount of work as adults, receive only half their parents' wage. For food, they get six tortillas and a spoonful of beans twice a day. Their working day lasts from 7 o'clock in the morning to 4 o'clock in the afternoon. In recent months, child labour has been used more and more since the adoption in November 1990 of a decree law which sets the minimum wage for agricultural workers at 10 quetzales a day (approximately $1.5). Many landowners have fired their adult workers in order to avoid paying the official minimum wage, and they now prefer to employ women and children.

18. The prospects of a dignified existence for Guatemalan children are far removed from the ideals proclaimed in the Convention on the Rights of the Child. For this reason the International Federation of Human Rights considers that it is urgent, once the Committee on the Rights of the Child has been established (pursuant to art. 43 of the Convention), to pay special attention to the situation of children in Guatemala, not only by considering the reports submitted by the Guatemalan Government but also by carrying out a special study in order to make specific recommendations.

19. It is equally important for the Commission on Human Rights to appoint a special rapporteur or representative to study Guatemala, with a mandate to prepare a preliminary report for the forty-sixth session of the General Assembly and a report for the forty-eighth session of the Commission.